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EXAMINER

BARQADLE, YASIN M

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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/864,750
Filing Date: May 24, 2001
Appellant(s): MOON, BILLY G.

Charles S. Fish
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/29/2007
appealing from the Office action mailed February 15, 2006.

Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

The statement of the status of the claims contained in the brief is correct.

Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

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Evidence Relied Upon

6738362	Xu et al	May-2004
6463286	Salminen	October-2002
6496871	Jagannathan et al	December-2002

GROUND OF REJECTION

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xu et al. (US Patent 6738362) in view of Salminen (US Patent 6463286) and further in view of Jagannathan et al US. Patent Number (6496871).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xu et al. (US Patent 6738362) hereinafter referred to as "Xu" in view of Salminen (US Patent 6463286) and further in view of Jagannathan et al US. Patent Number (6496871) here in after "Jagannathan".

In regards to claim 1, Xu discloses a method for registering a mobile object with a foreign network, comprising:

executing the mobile object on a first virtual machine at a first router on a foreign network (col. 6 lines 65-67);

generating a care-of-name for the mobile object at a foreign object agent located on the foreign network (the foreign agent initiates the registration process, which when dealing with a network device includes any identifiers and appropriate security information, or in the case of a mobile device on a foreign network, a care of name to be associated with the care of address, col,7 lines 1-12, col. 4 line 55 - col. 5 line 4 also briefly discusses transferring identifiers and security information when registering on a mobile network).

communicating the care-of-name to a home object agent located on the home network (the registration information is sent to the home agent, including all associated identifiers, col. 7 lines 3-7).

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generating a mobility binding for the mobile object at the home object agent, the mobility binding including the care-of-name (the home agent responds to the registration request with a care of address which binds the mobile user to the home agent, col. 7 lines 13-23).

Although Xu shows substantial features of the claimed invention, he does not explicitly show moving objects in response to unavailable resources in the home network.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Xu, as evidenced by Salminen USPN. (6463286).

In analogous art, Salminen whose invention is about a telecommunication system and a mobile station for providing a temporary selective national roaming at a predetermined network operation condition, disclose moving a mobile station and a copy of the subscriber data which can not be handled by the first home network is sent/switched to a visited network (foreign network) in response to unavailable resources in the home network [Col. 4, lines 15-34 and col. 5, lines 30-36 and col. 10, lines 25-64]. Giving the teaching of Salminen, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Xu by employing the system of Salminen in order to avoid a network overload on the

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home network and to provide with a flexible access to service of several networks for roaming user.

Although Xu and Salminen show substantial features of the claimed invention, they do not explicitly show the mobile object being computer language code.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Xu and Salminen, as evidenced by Jagannathan USPN. (6463286). In analogous art, Jagannathan whose invention is about a distributed agent software system and a method having enhanced process mobility and communication in a computer network "A particularly useful feature of the present invention is program mobility. The distributed agent system of the present invention incorporates several user-level migration methods for agents and objects, and one system-level migration method for threads." (Col. 11, lines 9-24 and col. 21, lines 25-28). Giving the teaching of Jagannathan, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Xu and Salminen by employing the enhanced process mobility system of Jagannathan because it allows the realization of mobility at both the agent and the object level. Tasks and data may freely and dynamically migrate among the machines in

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the network associated with creating their agent. By allowing objects and agents to migrate, the invention provides a degree of adaptability and flexibility heretofore unachieved by the prior art (Col. 11, lines 9-24).

In regards to claim 2, Xu discloses providing an object name associated with the mobile object to the foreign object agent to create the care-of-name (each mobile device contains unique identifiers used to create a name for the device on the foreign network in the registration process, the identifiers used to associate a device to any given registration attempt, col. 7 lines 25-31 for an example).

In regards to claim 3, Xu discloses the care-of-name comprises an object name associated with the mobile object and an extension name to uniquely identify the mobile object on the foreign network (an extension name is provided for identifying the mobile Object, col. 8 lines 3-20).

In regards to claim 4, Xu discloses the home object agent operable to maintain network location information for the mobile object (the home object maintains network location information

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for the mobile device through use of the care of address supplied by the foreign agent, col. 7 lines 13-18).

In regards to claim 5, Xu discloses:

discovering the foreign object agent on the foreign network (the foreign agent discovers the mobile device, col. 6 lines 63-67, by receiving a broadcast message from the mobile device).

Receiving an address associated with the foreign object agent at the mobile object (the mobile device sends registration information to the foreign agent, which would include an address, col. 6 lines 63 - col. 7 line 12).

In regards to claim 6, Xu discloses locating the mobile object on the foreign network by using the care-of-name associated with the mobility binding (the home agent can use the registration information provided by the foreign agent to locate the mobile object on the network for tunneling information, col. 7 lines 25-45).

In regards to claim 7, Xu discloses determining if the mobile object is authorized to negotiate with the foreign object agent based on object credentials associated with the mobile object

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(the home agent authorizes the mobile object to negotiate with the foreign agent to access the network, col. 7 lines 3-12).

In regards to claim 8, Xu discloses:

determining if the mobile object is authorized to negotiate with the foreign object agent based on object credentials associated with the mobile object (the home agent authorizes the mobile object to negotiate with the foreign agent to access the network, col. 7 lines 3-12);

providing authorization for the foreign object agent to communicate with the home object agent based on agent credentials associated with the foreign object agent if the mobile object is authorized to negotiate with the foreign object agent (once the mobile device has been determined to be authorized to negotiate with the foreign agent, the home agent creates a pathway between the home and foreign agents for communication, col. 7 lines 13-24).

In regards to claim 9, Xu discloses:

determining if the mobile object is authorized to negotiate with the foreign object agent based on object credentials associated with the mobile object (the home agent authorizes the mobile object to negotiate with the foreign agent to access

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the network, col. 7 lines 3-12);

providing authorization for the foreign object agent to communicate with the home object agent based on agent credentials associated with the foreign object agent if the mobile object is authorized to negotiate with the foreign object agent (once the mobile device has been determined to be authorized to negotiate with the foreign agent, the home agent creates a pathway between the home and foreign agents for communication, col. 7 lines 13-24);

authenticating the object credentials at the home object agent to create the mobility binding for the mobile object if the foreign object agent receives authorization to communicate with the home object agent (once the above two steps have been completed, the binding to the home agent is created, having already authorized the mobile client beforehand, col. 7 lines 3-12).

In regards to claim 10, Xu discloses:

copying the mobile object to create a duplicate mobile object on a second virtual machine at a second router located on the foreign network (the mobile device can be transferred to a second router on the foreign network, col. 8 line 57 - col. 9 line 11);

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creating a duplicate mobility binding at the home agent for the duplicate mobile object by obtaining a duplicate care-of-name from the foreign object agent (the home agent binding is copied to the new foreign agent location, col. 8 line 57 - col. 9 line 11).

In regards to claim 11, Xu discloses:

moving a portion of the mobile object to a second virtual machine at a second router located on the foreign network (the mobile device can be partially transferred to a second router on the foreign network, col. 8 line 57 - col. 9 line 11);

creating a secondary mobility binding at the first router for the portion of the mobile object by obtaining a secondary care-of-name from the foreign object agent (the home agent binding is copied to the new foreign agent location, col. 8, line 57 - col. 9 line 11).

In regards to claim 12, Xu discloses a method for registering a mobile object with a foreign network, comprising:

executing a mobile object on a virtual machine at a router on a foreign network (col. 6 lines 65-67);

generating a care-of-name for the mobile object at a foreign object agent located on the foreign network (the foreign

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agent initiates the registration process, which when dealing with a network device includes any identifiers and appropriate security information, or in the case of a mobile device on a foreign network, a care of name to be associated with the care of address, col. 7 lines 1-12, col. 4 line 55 - col. 5 line 4 also briefly discusses transferring identifiers and security information when registering on a mobile network);

communicating the care-of-name to a home object agent located on a home network (the registration information is sent to the home agent, including all associated identifiers, col. 7 lines 3-7);

generating a mobility binding for the mobile object at the home object agent, the mobility binding including the care-of-name (the home agent responds to the registration request with a care of address which binds the mobile user to the home agent, col. 7 lines 13-23);

locating the mobile object on the foreign network by using the care-of-name associated with the mobility binding (the home object maintains network location information for the mobile device through use of the care of address supplied by the foreign agent, col. 7 lines 13-18).

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As per the limitation of moving a mobile object from a home network to a foreign network in response to unavailable resources at the home network and the mobile object being computer language code see the rejection of claim 1 above.

In regards to claim 13, Xu discloses the care-of-name comprises an object name associated with the mobile object and an extension name to uniquely identify the mobile object on the foreign network (each mobile device contains unique identifiers used to create a name for the device on the foreign network in the registration process, the identifiers used to associate a device to any given registration attempt, col. 7 lines 25-31

For an example);

generating a care-of-address associated with the care-of-name for the mobile object at the foreign object agent (the foreign object receives information from the home agent, used to create a care-of-address for the mobile agent, col. 7 lines 13-23);

establishing a tunnel between the home object agent and the mobile object by using the care-of-address as an endpoint of the tunnel (the tunnel is created between the home agent and the mobile object, col. 7 lines 13-23).

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In regards to claim 15, Xu discloses the care-of-address comprises an Internet Protocol address (col. 7 lines 13-18).

In regards to claim 16, Xu discloses the home object agent operable to maintain network location information for the mobile object (the home object maintains network location information for the mobile device through use of the care of address supplied by the foreign agent, col. 7 lines 13-18).

In regards to claim 17, Xu discloses a router comprising a virtual machine configured to host a mobile object, the mobile object operable to:

negotiate with a foreign object agent Located on a foreign network for a care-of- name (after supplying the foreign agent with registration information including name and security identifiers, the foreign agent initiates the registration process, which when dealing with a network device includes any identifiers and appropriate security information, or in the case of a mobile device on a foreign network, a care of name to be associated with the care of address, col.7 lines 1- 12, col.4 Line 55 - col.5 Line 4 also briefly discusses transferring identifiers and security information when registering on a mobile network);

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obtain a mobility binding from a home object agent Located on a home network by using the care-of-name (the home agent responds to the registration request with a care of address which binds the mobile user to the home agent, col.7 lines 13-23).

As per the limitation of moving a mobile object from a home network to a foreign network in response to unavailable resources at the home network and the mobile object being computer language code see the rejection of claim 1 above.

In regards to claim 18, Xu discloses the mobile object operable to provide an object name associated with the mobile object to the foreign object agent (each mobile device contains unique identifiers used to create a name for the device on the foreign network in the registration process, the identifiers used to associate a device to any given registration attempt, col.7 Lines 25-31 for an example).

In regards to claim 19, Xu discloses the care-of-name comprises an object name associated with the mobile object and an extension name that uniquely identifies the mobile object on the foreign network (an extension name is provided for identifying the mobile object, col.8 lines 3-20).

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In regards to claim 20, Xu discloses the home object agent operable to:

host the mobile object on the home network (fig.2);

maintain network location information for the mobile object (col.7 Lines 3-12).

In regards to claim 21, Xu discloses the home object agent operable to:

discover the foreign object agent on the foreign network through an agent solicitation message (the foreign agent sends a message to the home agent, col.7 Lines 3-12);

receive an address associated with the foreign object agent (in the above message, the foreign agent supplies an address)

In regards to claim 22, Xu discloses an agent virtual machine configured to host the foreign object agent (col.6 Line 63 - col.7 Line 12).

In regards to claim 23, Xu discloses the mobile object operable to:

create a duplicate mobile object operable to be hosted on a duplicate virtual machine at a duplicate router on the foreign network (the mobile device can be transferred to a second router on the foreign network, col.8 line 57 - col.9 Line 11);

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obtain a duplicate mobility binding from the home object agent by receiving a duplicate care-of-name from the foreign object agent (the home agent binding is copied to the new foreign agent location, col.8 Line 57 - col.9 Line 11).

In regards to claim 24, Xu as modified teach the mobile object operable to:

move a portion of the mobile object to a duplicate virtual machine at a duplicate router on the foreign network (the mobile device can be partially transferred to a second router on the foreign network, col.8 Line 57 - col.9 Line 11);

obtain a secondary mobility binding at the router for the portion of the mobile object by obtaining a secondary care-of-name from the foreign object agent (the home agent binding is copied to the new foreign agent location, col.8 line 57-col.9 line 11).

In regards to claim 25, Xu discloses:

a mobile object operable to send object credentials to the foreign object agent to obtain authorization to negotiate with the foreign object agent (the home agent authorizes the mobile object to negotiate with the foreign agent to access the network, col.7 Lines 3-12);

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the mobile object obtaining the mobility binding if the home object agent provides authorization for the foreign object agent to communicate with the home object agent and authenticates object credentials associated with the mobile object (once the above step has been completed, the binding to the home agent is created, having already authorized the mobile client beforehand, col.7 Lines 3-12).

Claims 26-38 have similar limitations as claims 1-25, therefore, they rejected with the same rationale. See the rejection of claims 1-25 above.

Response to Arguments

The appellant's arguments raised in the Appeal Brief have been considered but are not deemed persuasive.

1. Appellant argues "First, there is no objective reason provided by the Examiner to combine the Xu, et al., Salminen, and Jagannathan, et al. patents as proposed. The Examiner has failed to provide an objective reason that would have prompted a person of ordinary skill in the art to combine the Xu, et al., Salminen, and Jagannathan, et al. patents. The Xu, et al. patent

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is directed to a mobile wireless device that can communicate with its home network remotely through a foreign network. The Salminen patent is directed to mobile wireless station roaming from one area to another area. The Jagannathan, et al. patent is directed to distributed agent software system in a computer network. Thus, the three cited patents apply to different areas of technology." (Page 9, second paragraph).

"The rationale provided by the Examiner for their combination is purely subjective conjecture and speculation with no objective reasoning being provided to support combining the references as has been proposed. The Examiner is merely taking bits and pieces of unrelated subject matter in an improper hindsight attempt at reconstructing the claimed invention." (Page 10, paragraph 1).

In regard to the Appellant's arguments state above, particularly that " the three cited patents apply to different areas of technology" and "The Examiner is merely taking bits and pieces of unrelated subject matter in an improper hindsight attempt at reconstructing the claimed invention." Examiner notes that the three cited patents apply to similar areas of technology such as the field of computing devices in a computing network.

For example, Xu is directed to network system where mobile communications device such as a portable laptop computer or

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personal digital assistant may communicate with a host computer on an IP network. Xu states "This invention relates generally to systems that provide mobile Internet Protocol (IP) networking, wherein a mobile communications device such as a portable laptop computer or personal digital assistant may communicate with a host computer on an IP network." (Col. 1, lines 19-23).

Salminen, at the beginning of the summary of the invention, states, "In particular, it is the object of the invention to provide a method, an exchange, a telecommunication system and a mobile station, such that mobile users can be provided with a flexible access to services of several networks."

Jagannathan discloses "Generally speaking, in accordance with the invention, a distributed software system for use with a plurality of computer machines connected as a network is provided. " (Col. 5, lines 39-41). Furthermore, Jagannathan shows the architectural components of his invention in fig. 1. Jagannathan states "A plurality of nodes or machines 10, such as machines 10a and 10b, are connected to each other through a communication interface 20 to form a network 25. Machines 10a and 10b may be homogeneous or heterogeneous machines." (Col. 8, lines 44-50). Therefore, it is clear that all three cited

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patents apply to similar areas of technology. Hence, the Appellant's argument of different areas of technology is moot.

Lastly, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Xu et al. teaches "The multiple home registration agents are implemented as multiple instantiations or threads of a home registration agent software program in a general purpose computer or other suitable device running a Microsoft Windows NT or a similar operating system. ... Similarly, multiple home tunneling agents could be implemented as multiple software instantiations running simultaneously in a router or switch. Thus, instead of implementing multiple discrete hardware devices to perform multiple home tunneling agent functions, multiple home tunneling agents could be provided in a single router, as separate instantiations of a home tunneling agent software program." (Col. 8, lines 27-45). Since Xu's home tunneling agents are software program, nothing precludes to be combined with mobile object code of Jagannathan et al. On the contrary,

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the mobility of the software agents provided by Jagannathan would provide the benefit of transparent access of data resident on other machines in the network as suggested by Jagannathan (See col. 5, lines 29-36).

2. Appellant argues, "Second, a reasonable expectation of success has not been shown by the Examiner. The combination of the Xu, et al., Salminen, and Jagannathan, et al. patents would not be capable of performing the operation required by the claimed invention. There is no showing by the Examiner that the functions of any of the Xu, et al., Salminen, and Jagannathan, et al. patents would be able to operate in a single system. There has also been no showing that the combined references would even be able to perform the functionality of the claimed invention. The proposed combination attempts to combine incompatible processing techniques that have not been shown to be capable of operating according to any degree of predictability... The Examiner, without the improper hindsight look through the claimed invention, has not addressed how the proposed combination of the cited references would have any success whatsoever let alone a reasonable expectation of success." (Page 12, paragraph 2).

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In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning (see page 12 of Appellant's remarks), it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Examiner has provided a good reason why one ordinary skill in the art at the time of the invention would combine Xu with Salminen. Examiner stated that by combining Xu with Salminen the advantage of avoiding a network overload on the home network is achieved which results flexible access of network services for mobile (roaming) users. Examiner has also shown the advantage of combining Xu and Salminen with Jagannathan. For example, Jagannathan uses an enhanced process mobility system of that allows the realization of mobility at both the agent and the object level. Therefore, tasks and data may freely and dynamically migrate among the machines in the network associated with creating their agent. By allowing objects and agents to migrate, the invention provides a degree of

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adaptability and flexibility heretofore unachieved by the prior art (Col. 11, lines 9-24). Examiner notes that Xu teaches "Multiple home tunneling agents or home registration agents can be implemented in the respective devices as multiple instantiations of a home registration agent or home tunneling agent software program." (Abstract). Therefore, Xu's "agent software program" combined with Salimnen need the mobility of the software agents provided by Jagannathan. In this way a transparent access of data resident on another machine in the network is achieved. (See Jagannathan col. 5, lines 29-36).

3. Appellant argues, "Third, the Examiner has not shown that the proposed Xu, et al. - Salminen - Jagannathan, et al. combination teaches or suggests all of the claim limitations... There is no mention or an object having computer language code in the Xu, et al. patent let alone its mobility from a home network to a foreign network. Moreover, there is no disclosure in the Xu, et al. patent that this object mobility is triggered by a lack of resources in the home network. In addition, there is no disclosure in the Xu, et al. patent of execution of a mobile object once moved to the foreign network." (Entire page 13).

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In response to applicant's arguments against the references individually ("There is no mention of an object having computer language code in the Xu, et al. patent let alone its mobility from a home network to a foreign network. Moreover, there is no disclosure in the Xu, et al. patent that this object mobility is triggered by a lack of resources in the home network. In addition, there is no disclosure in the Xu, et al. patent of execution of a mobile object once moved to the foreign network" page 13), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Examiner notes that Xu is not relayed on to teach the argued limitations such as (an object having computer language code), (object mobility is triggered by a lack of resources in the home network) and (execution of a mobile object once moved to the foreign network). However, the combined teachings of Xu, et al. - Salminen - Jagannathan, et al teach the argued limitations as shown in the office action below.

Furthermore, the Appellant argues "There is no movement of a mobile object from a home network to a foreign network disclosed within the Salminen patent. The mobile device of the Salminen

patent is merely allowed to register in place with the visited network. No movement of the mobile device takes place in the Salminen patent." (Page 15, paragraph 1). Examiner respectfully disagrees with the Appellant. Salminen does more than allowing a mobile device to register with the visited network. Salminen teaches "According to the invention, the switching means of the (first) home network and the switching means of the (second) visited network perform an exchange of request and response messages when a predetermined condition, e.g. an overload condition, occurs in the home network. Thereby, the home network and the visited network negotiate as to whether or not the visited network is capable of handling traffic for one or more mobile stations of the home network, which cannot be handled in their own network. In particular, the switching means of the visited network returns a response message to the switching means of the home network to indicate whether or not it will and can grant an access to a particular number of mobile stations of the home network." Col. 4, lines 15-30). Salminen further teaches "Since the traffic conditions may vary among several switching means of the visited network, the success rate of transferring a large number of mobile stations to the visited network can thus be increased." (Col. 4, lines 44-53). Salminen also teaches "Thus, particular groups of mobile stations of the

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home network, possibly located in the same location area or in a different location area, may be transferred to the same or the different local area in the visited network." (Col. 5, lines 25-29).

Related Proceeding(s) Appendix

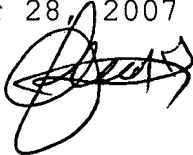
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of his examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

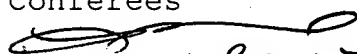
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